

No. 82-1474

IN THE SUPREME COURT OF THE
UNITED STATES

OCTOBER TERM, 1983

CHARLES R. HOOVER, HOWARD H. KARMAN,
ROBERT D. MYERS and HAROLD J. WOLFINGER
Petitioners,
vs.
EDWARD RONWIN,
Respondent.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SUPPLEMENTAL BRIEF OF THE PETITIONERS

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On January 11, 1984, Petitioners received a recent decision of the Ninth Circuit Court of Appeals related to an issue presented by this case. As Petitioners could not refer to this decision in their previously filed Reply Brief, Petitioners submit this supplemental brief to bring this decision to the Court's attention.

On December 23, 1983, the Ninth Circuit Court of Appeals ruled that an action brought in state court under a state antitrust act barred, under res judicata, the bringing of the same action under the federal antitrust laws. Derish v. San Mateo-Burlingame Board of Realtors, 1984-1 CCH Trade Cas. ¶ 65,771 (No. 83-1791, 9th Cir. 1983).

This decision is significant to the issue of res judicata presented

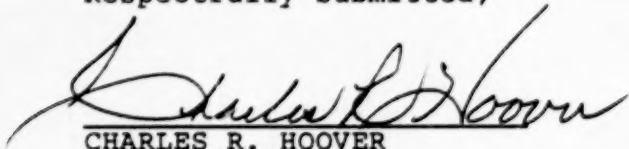
by this case. Ronwin specifically requested relief from the Arizona Supreme Court under appropriate state procedures alleging the same antitrust claim he later made in federal court. In re Petition of Ronwin, S.B. 52 (Supreme Court of Arizona 1974), cert. denied sub nom, Ronwin v. Committee on Examinations and Admissions of the Supreme Court of Arizona, 419 U.S. 967 (1974).

As the Ninth Circuit held in Derish, supra, the identity of those claims and the policies underlying res judicata outweigh the policies underlying exclusive jurisdiction of federal antitrust claims in federal courts. The reasoning of the Court of Appeals calls for the application of its holding to the facts in this case. The fact that Ronwin requested different relief--admission then, damages now--is irrelevant.

CONCLUSION

For the reasons stated above and in the Brief for the Petitioners and the Reply Brief of the Petitioners, the order and opinion of the United States Court of Appeals for the Ninth Circuit should be reversed and the order and judgment dismissing respondent's complaint should be reinstated.

Respectfully submitted,



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January 12, 1984